

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
Petition for Waiver Filed by	)	CC Docket No. 96-45
	)	
Roosevelt County Rural Telephone Cooperative, Inc.	)	AAD 95-82
	)	
Concerning the Definition of "Study Area" Contained in the	)	
Part 36 Appendix-Glossary of the Commission's Rules	)	

To: Chief, Common Carrier Bureau

**REQUEST FOR REMOVAL OF WAIVER CONDITION  
CONSISTENT WITH COMMISSION POLICY**

Roosevelt County Rural Telephone Cooperative, Inc. ("Roosevelt") submits this request for the removal of the "cap" on the Universal Service Fund ("USF") cost allocation support payments established by the Commission's Order adopted July 11, 1996, with respect to Roosevelt's study area.<sup>1</sup> The Order authorized the transfer of local exchange facilities consisting of one exchange serving 455 access lines into Roosevelt's existing study area. As a condition to the grant of study area waiver, the Order imposed a limitation or "cap" on USF disbursements to the Roosevelt study area of \$857,130 per annum. Consistent with the overarching Commission policy conclusions now established by the Memorandum Opinion and Order on Reconsideration, released September 9, 1999,<sup>2</sup> Roosevelt requests that its individual USF cap be removed as of January 1, 2000.<sup>3</sup>

<sup>1</sup> Memorandum Opinion and Order, AAD 95-82, 11 FCC Rcd 8066 (1996) ("Order").

<sup>2</sup> Memorandum Opinion and Order on Reconsideration, AAD 93-93, 95-72, 95-30, 97-21, 97-23, 97-117, 98-44, 98-53, DA 99-1845, released September 9, 1999 ("Cap Removal Order").

<sup>3</sup> Although this Request references an effective date of January 1, 2000, Roosevelt does not waive its right to raise issues in the future with respect to the applicability of the

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Roosevelt expects that many other similarly-situated companies will be seeking removal of their individual USF caps consistent with the Bureau's newly articulated policy conclusions. In order to avoid the administrative burden of repeatedly applying its new policy to a multitude of almost identical requests, Roosevelt respectfully suggests that the Commission simply clarify, on its own motion, its policy by lifting the 57 remaining USF caps.

In the absence of this clarification, Roosevelt respectfully requests expedited action in light of the consistency of this request with the recent policy conclusions and to accommodate the completion of the USF administration prior to January 1, 2000. In support thereof, Roosevelt submits the following:

**I. Background**

On May 30, 1995, Roosevelt and US WEST Communications, Inc. filed a joint petition for waiver of the frozen study area boundaries. On July 11, 1996, the FCC released its Order authorizing the removal of one exchange from the US WEST study area and allowing Roosevelt to consolidate the acquired exchange within its existing New Mexico study area. Roosevelt was authorized to transfer one exchange serving 455 access lines into its existing study area subject to the condition that, absent explicit approval from the Bureau, the annual USF support provided to the existing study area would not exceed the estimated post-upgrade amount of \$857,130, specified in the joint petition.<sup>4</sup> The National Exchange Carrier Association ("NECA") was ordered not to distribute USF payments exceeding the limitation.

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Commission's policy or rules to prior periods beginning May 8, 1997.

<sup>4</sup> Order at ¶ 17.

In the Order, the Bureau also acknowledged appropriately that

it is likely that any new universal service rules will alter the method used to determine the distribution of USF support to high-cost areas, thereby changing the projected level of support to the buyers' study areas. This, in turn, may require us to revisit these issues, and the related waiver conditions that we have established herein.<sup>5</sup>

Although Roosevelt was aware in 1995 that the facilities to be purchased were substandard, and that the Bureau would likely impose a limit on USF recovery, Roosevelt, nevertheless, fully expected that a rational network cost recovery application would be ultimately resolved consistent with the public interest.<sup>6</sup> Roosevelt believed that rational cost recovery would be possible by removal of the limit or the implementation of a new USF plan, under which the reasonable high costs would be addressed. Although the Roosevelt study area's 2000 USF receipts, based on data forwarded from the Universal Service Administrative Corporation ("USAC") to the Commission on October 1, 1999, will likely be less than the \$857,130 cap imposed in the Order, grant of this request will allow Roosevelt to proceed in coming months and years with network upgrades with the understanding that the costs incurred in providing advanced services in rural New Mexico will be addressed by USF cost recovery.

## **II. Removal of Roosevelt's Cap is Consistent with Established Commission Policy**

On September 9, 1999, the Commission issued its Cap Removal Order, addressing petitions for waiver and reconsideration of the USF conditions applied to 32 study areas. While

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<sup>5</sup> Id.

<sup>6</sup> Since the acquisition in 1996, Roosevelt has replaced central office switching facilities with digital switching equipment and is currently in the process of upgrading its cable and wire facilities. Roosevelt has invested over \$4,300,000 in its network over the past three years.

the Commission noted its policy of monitoring USF impact on carriers involved in study area changes and capping carriers at some estimate of post-upgrade costs, the Commission correctly concluded that limiting the duration of those caps is appropriate and in the public interest.<sup>7</sup> Accordingly, the Commission granted petitioners' requests to lift the individual caps placed on their high cost loop support on a going-forward basis.<sup>8</sup> As of January 1, 2000, the high cost loop support for the 32 study areas will then be based upon the average cost of all their lines.

The Commission acknowledged that "caps of unlimited duration may hinder petitioners' incentive and ability to extend service to previously unserved areas, as well as to upgrade service to their existing customers."<sup>9</sup> The Commission also determined that "limiting the petitioners to the high cost loop support estimated in their original petitions, in perpetuity, is not necessary to accomplish the [Commission's] policies . . ." The Commission "concluded that . . . the individual caps placed on the carriers' high cost loop support have served their purpose . . ."<sup>10</sup> The Commission also recognized correctly that lifting the caps on petitioners' high cost support will increase the affected LECs' incentives and ability to extend service to previously unserved areas and upgrade their networks."<sup>11</sup>

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<sup>7</sup> Cap Removal Order at ¶ 9.

<sup>8</sup> Cap Removal Order at ¶ 10.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Cap Removal Order at ¶ 10. See also Federal-State Joint Board on Universal Service: Promoting Development and Subscribership in Unserved Areas, Including Tribal and Insular Areas, Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 99-204 (rel. Sept. 3, 1999).

Roosevelt's conditions are effectively identical to those petitioners addressed in the Cap Removal Order. Therefore, removal of Roosevelt's individual USF cap is both warranted by, and consistent with, the Commission's conclusions and policy enunciated in the Cap Removal Order. Like the petitioners addressed in that order, Roosevelt purchased exchanges several years ago and, in conjunction with its request for study area waiver, provided a reasonable estimate of the costs to upgrade the subject facilities for the provision of basic telephone service to existing and new customers. Following the grant of study area waiver, Roosevelt proceeded to deploy service and upgrade the facilities according to its plans. Continuing to limit Roosevelt to the high cost loop support estimated in its original petition is not necessary to accomplish the Commission's policies. Further, continued application of the individual cap imposed in July of 1996 would hinder Roosevelt's incentive to continue to invest in advanced services networks and to upgrade existing service, and would jeopardize Roosevelt's ability to maintain reasonably comparable rates for modern services.

### **III. Conclusion**

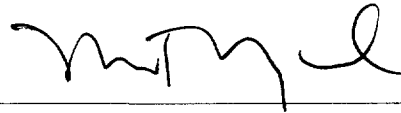
Consistent with the Commission's policy established in its Cap Removal Order, Roosevelt requests that the individual USF cap established by the Commission's Order be removed as of January 1, 2000. Roosevelt requests that the Commission lift the individual cap placed on its high cost loop support on a going-forward basis so that, as of January 1, 2000, Roosevelt's high cost loop support payments will be based upon the average cost of all its lines. Adequate USF funding is necessary to allow Roosevelt to continue to maintain and upgrade its facilities for the provision of universal service to its rural New Mexico study area. Expedited grant of this request will serve the public interest by ensuring that Roosevelt receives adequate

universal service funding to recover the costs of its investment and thereby meet its current and future service requirements.

Respectfully submitted,

Roosevelt County Rural Telephone  
Cooperative, Inc.

By



Stephen G. Kraskin  
David Cosson  
Margaret Nyland  
Its Attorneys

Steven Watkins  
Telecommunications Management Consultant

Kraskin, Lesse & Cosson, LLP  
2120 L Street, NW  
Suite 520  
Washington, DC 20037  
202/296-8890

November 1, 1999

## CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Request for Removal of Waiver Condition Consistent with Commission Policy" of Roosevelt County Rural Telephone Cooperative, Inc., was served on this 1st day of November, 1999 by hand delivery to the following parties:

  
Shelley Davis

Lawrence Strickling, Chief  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW Room 5-C450  
Washington, DC 20554

Lisa Zaina, Acting Deputy Bureau Chief  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 5-B303  
Washington, DC 20554

Irene Flannery, Chief  
Accounting Policy Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 5-A426  
Washington, DC 20554

Ms. Adrian Wright  
Accounting Policy Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 5-B510  
Washington, DC 20036